

"Express Mail" mailing number:
Date of Deposit: September 2, 2008

9-4-08
EV 939 520 766

USPN: 09/729,491
Attorney Docket: SST-1035

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Inventor: William F. Leek
Assignee: Simpson Strong-Tie Company, Inc.
Title: Automatic Take-up Device with Internal Spring
Serial No.: 09/729,491
Filed: December 3, 2000
Group Art: 3637 Confirmation No.: 5971
Examiner: A, Phi Dieu Tran
Docket No.: SST-1035

**RENEWED PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW
THE HOLDING OF ABANDONMENT**

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Office of the Petitions, on Applicant's petition, mailed a dismissal on July 2, 2008. This renewed petition is being filed within two months of July 2, 2008, making it timely filed.

Applicant hereby petitions, again, to withdraw the holding of abandonment that has been imposed in this case, and to reconsider the dismissal of Applicant's previous petition filed on March 7, 2008. The commissioner is authorized to withdraw the fee for the petition under 37 CFR 1.181, as stated in 37 CFR 1.17(f), from the deposit account of Applicant's attorney – Law Offices of James R. Cypher - 03-4075.

Applicant also hereby renews its petition to have the Patent Office accord the filing date for Applicant's correspondence filed on January 7, 2008 by EFS transmittal. Applicant believes that no fee for the petition under 37 CFR 1.8(b) is required. If this belief is in

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error, or the fees have been amended without Applicant's knowledge, Applicant authorizes the Commissioner to pay any underpayment of fees or pay any additional fees that may be required by this paper by withdrawing them from Deposit Account No. 03-4075.

BRIEF IN SUPPORT OF THE RENEWED PETITION UNDER 37 C.F.R. §
1.181 TO REMOVE HOLDING OF ABANDONMENT

I. Statement of Facts

The United States Patent and Trademark Office mailed a Final Action in this case on July 5, 2007, with a shortened statutory period of reply of three months.

Three months from July 5, 2007, was October 5, 2007, a Friday.

Applicant filed a reply on January 7, 2008. Applicant's communication on January 7, 2008 was a Request for Continued Examination, including the necessary fee, a submission under 37 CFR 1.114, and a petition for an extension of time of three months under 37 CFR 1.136, including the necessary extension fee. True copies of all of the documents submitted on January 7, 2008 are attached.

Six months from July 5, 2007, is January 5, 2008.

January 5, 2008 was a Saturday.

January 7, 2008, was a Monday.

January 7th was the next business day following the extended due date of January 5, 2008.

On January 9, 2008, the United States Patent and Trademark Office issued a Notice of Abandonment. The Notice of Abandonment states that the application has been abandoned because of "Applicant's failure to timely file a proper reply to the Office letter mailed on 05 July 2007."

Applicant filed a petition to withdraw the holding of abandonment on March 7, 2008, along with a petition under 37 CFR 1.8 to accept the Request for Continued Examination on January 9, 2008 as timely filed.

The Office of Petitions mailed a dismissal of Applicant's petition on July 2, 2008.

II. Points to Be Reviewed

Whether an Applicant may benefit from the provisions of 35 USC §21(b) and have a response filed on the next succeeding business day considered timely, when Applicant has applied for an extension of a shortened statutory period and the extension date falls on a Saturday, but the original shortened statutory period did not.

III. Relevant Rules and Laws

35 USC §21(b) states in relevant part: "When the day, or the last day, for taking any action or paying any fee in the United States Patent and Trademark Offices falls on Saturday, Sunday, or a Federal Holiday within the District of Columbia the action may be taken, or the fee paid, on the next succeeding secular or business day.

37 CRR 1.7(a) states in relevant part: "Whenever periods of time are specified in this part in days, calendar days are intended. When the day, or the last day fixed by statute or by or under this part for taking any action or paying any fee in the United States Patent and Trademark Office falls on Saturday, Sunday or on a Federal holiday within the District of Columbia, the action may be taken, or the fee paid, on the next succeeding business day which is not a Saturday, Sunday or a Federal holiday."

37 CFR 1.136(a)(1) states in relevant part: "If an applicant is required to reply within a nonstatutory or shortened statutory time period, applicant may extend the time period for reply up to the earlier of the expiration of any maximum period set by statute or five months after the period set for reply, if a petition for an extension of time and the fee set in §1.17(a) are filed...."

IV. Applicant's Argument

Applicant believes that United States Patent and Trademark Office improperly issued a Notice of Abandonment in this file and improperly denied Applicant's petition to withdraw the holding of abandonment, as Applicant's Request for Continued Examination was timely transmitted and received by the Office on January 7, 2008.

The Office has not said that anything was wrong with Applicant's petition except that it was filed late. The Office in its denial says that the Request for Continued Examination could not be filed outside of the statutory period which ended January 5, 2008.

Applicant respectfully disagrees. Applicant notes that the MPEP, Section 71.01(a) states at relevant part: "A 1-month extension of time extends the time for reply to the date corresponding to the Office action date in the following month."

The date for reply in the present case was extended to January 5, 2008. 35 USC §21(b) applies to any period for reply whether or not it is extended. As such, because January 5, 2008 was a Saturday, the period for reply is extended until January 7, 2008. Since 35 USC §21(b) is a law, the period of reply is extended to January 7, 2008 by statute and is thus not at odds with 37 CFR 1.136(a)(2) which states that the time period may not be extended beyond the period set by statute.

V. Relief Requested

Applicant respectfully requests that the Patent Office, on the basis of this petition, withdraw its holding of abandonment and accept and process the Request for Continued Examination that was timely filed on January 7, 2008.

PETITION TO ACCORD FILING DATE FOR AN EFS SUBMISSION RECEIVED BY P.T.O. (UNDER 37 C.F.R. § 1.8(b))

This application should still be pending as a Request for Continued Examination was timely filed on January 7, 2008. The Request for Continued Examination and its submission was transmitted by myself via the EFS system on January 7, 2008. Applicant respectfully requests that the Patent Office acknowledge that these documents were received on January 7, 2008.

Applicant believes that the Office is treating the papers submitted on January 7, 2008, as having not been received because Applicant has received a Notice of Abandonment in this case. The Notice of Abandonment was mailed on January 9, 2008. This petition is being filed promptly thereafter. 37 C.F.R. § 1.8(b)(1).

The following attached papers are those required by 37 C.F.R. § 1.8(b):


1. A true copy of the originally-deposited papers and fees: the Request for Continued Examination and the submission and the Electronic Application Fee Transmittal.
2. A statement by Charles R. Cypher on the basis of personal knowledge that the correspondence was originally transmitted on January 7, 2008.
3. The Office's Acknowledgment Receipt.
4. A printout from Private PAIR showing the documents in the Office's Database as of 20:11, January 7, 2008.

In consideration of these submissions and explanations, it is respectfully requested that the holding of abandonment be withdrawn, and that the application proceed to examination on the basis of the Request for Continued Examination filed on January 7, 2008.

I, Charles R. Cypher, having been duly warned that willful false statements and the like so made are punishable by fine or imprisonment or both under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this document or the instant application, I hereby declare that I am authorized to execute this document; that the facts set forth herein are true; that all statements made of my own knowledge are true; and that all statements made on information and belief are believed to be true.

Date: September 2, 2008

Signature: _____


Charles R. Cypher, Reg. No. 41,694
Law Offices of James R. Cypher
405 -14th St., Suite 1607
Oakland, CA 94612-2747
Tel: (510) 832-4111
Fax: (510) 832-4115
Customer no. 0498

"Express Mail" mailing number:

Date of Deposit: September 2, 2008

USSN: 09/729,491

Attorney Docket: SST-1035



Enclosures:

Petition 6 pages; RRPC; Check # 14323 for \$400.

Copies the following documents dated and filed with the USPTO on March 7, 2008:

Petition of March 7, 2008 (3 pgs);

Statement by Charles R. Cypher of 3/7/2008 (1 pg)

Copies the following documents dated and filed with the USPTO on January 7, 2008:

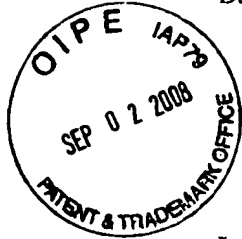
Electronic Acknowledgment Receipt (2 pgs)

Request for Continued Examination (RCE) Transmittal (3 pg);

Electronic Fee Transmittal (2 pg);

Submission and Petition (11 pgs);

PAIR printout (1 pg)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Inventor: William F. Leek
Assignee: Simpson Strong-Tie Company, Inc.
Title: Automatic Take-up Device with Internal Spring
Serial No.: 09/729,491
Filed: December 3, 2000
Group Art: 3637 Confirmation No.: 5971
Examiner: A, Phi Dieu Tran
Docket No.: SST-1035

**PETITION TO ACCORD FILING DATE FOR EFS TRANSMITTAL
CORRESPONDENCE RECEIVED BY P.T.O. (UNDER 37 C.F.R. § 1.8(b))**

**CONDITIONAL
PETITION TO WITHDRAW HOLDING OF ABANDONMENT
(UNDER 37 C.F.R. § 1.181)**

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant hereby petitions to withdraw the holding of abandonment that has been imposed in this case. The commissioner is authorized to withdraw the fee for the petition under 37 CFR 1.181, as stated in 37 CFR 1.17(f), from the deposit account of Applicant's attorney – Law Offices of James R. Cypher - 03-4075. Applicant hereby also petitions to have the Patent Office accord the filing date for Applicant's correspondence filed on January 7, 2008 by EFS transmittal. Applicant believes that no fee for the petition under 37 CFR 1.8(b) is required. If this belief is in error, or the fees have been amended without Applicant's knowledge, Applicant authorizes the Commissioner to pay any underpayment of fees or pay any additional fees that may be required by this paper by withdrawing them from Deposit Account No. 03-4075.

PETITION TO REMOVE HOLDING OF ABANDONMENT

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UNDER 37 C.F.R. §§ 1.181

A Notice of Abandonment for this case was mailed January 9, 2008. This paper with these petitions is being filed within two months of receipt of the Notice.

Applicant's last communication to the Patent Office in this file was sent January 7, 2008. Applicant's communication on January 7, 2008 was a Request for Continued Examination, including a the necessary fee, a submission under 37 CFR 1.114, including a petition for an extension of time of three months and the necessary fee, which was filed in response to the Final Action, mailed July 5, 2008. January 5, 2008, was a Saturday, so a response filed on Monday the 7th, the next business day was timely filed.

The Notice of Abandonment states that the application has been abandoned because of "Applicant's failure to timely file a proper reply to the Office letter mailed on 05 July 2007."

Applicant believes that it is improper to issue a Notice of Abandonment on this basis, as Applicant's Request for Continued Examination was actually timely transmitted and received by the Office on January 7, 2008.

Applicant respectfully requests that the Patent Office, on the basis of this petition, withdraw its holding of abandonment and accept and process the Request for Continued Examination that was timely filed on January 7, 2008.

PETITION TO ACCORD FILING DATE FOR AN EFS SUBMISSION
RECEIVED BY P.T.O. (UNDER 37 C.F.R. § 1.8(b))

This application should still be pending as a Request for Continued Examination was timely filed on January 7, 2008. The Request for Continued Examination and its submission was transmitted by myself via the EFS system on January 7, 2008. Applicant respectfully requests that the Patent Office acknowledge that these documents were received on January 7, 2008.

Applicant believes that the Office is treating the papers submitted on January 7, 2008, as having not been received because Applicant has received a Notice of Abandonment in this case. The Notice of Abandonment was mailed on January 9, 2008. This petition is being filed promptly thereafter. 37 C.F.R. § 1.8(b)(1).

The following attached papers are those required by 37 C.F.R. § 1.8(b):

1. A true copy of the originally-deposited papers and fees: the Request for Continued Examination and the submission and the Electronic Application Fee Transmittal.

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2. A statement by Charles R. Cypher on the basis of personal knowledge that the correspondence was originally transmitted on January 7, 2008.
3. The Office's Acknowledgment Receipt.
4. A printout from Private PAIR showing the documents in the Office's Database as of 20:11, January 7, 2008.

In consideration of these submissions and explanations, it is respectfully requested that the holding of abandonment be withdrawn, and that the application proceed to examination on the basis of the Request for Continued Examination filed on January 7, 2008.

I, Charles R. Cypher, having been duly warned that willful false statements and the like so made are punishable by fine or imprisonment or both under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this document or the instant application, I hereby declare that I am authorized to execute this document; that the facts set forth herein are true; that all statements made of my own knowledge are true; and that all statements made on information and belief are believed to be true.

Date: January 7, 2008

Signature: 

Charles R. Cypher, Reg. No. 41,694
Law Offices of James R. Cypher
405 -14th St., Suite 1607
Oakland, CA 94612-2747
Tel: (510) 832-4111
Fax: (510) 832-4115
Customer no. 0498

Enclosures:

Petition (3 pgs); Statement by Charles R. Cypher (1 pg); RRPC;

Copies the following documents dated and filed with the USPTO on January 7, 2008:

Electronic Acknowledgment Receipt (2 pgs)
Request for Continued Examination (RCE) Transmittal (3 pg);
Electronic Fee Transmittal (2 pg);
Submission and Petition (11 pgs);
PAIR printout (1 pg)

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Statement by Charles R. Cypher
in Support of Petition Under 37 CFR §1.8(b)

I, Charles R. Cypher, personally transmitted the Request for Continued Examination and the Submission under 37 CFR §1.114 on January 7, 2008. A copy of the acknowledgment receipt generated by the Office electronic filing system confirming the submission is submitted herewith, as is a status printout of the Office's electronic database on January 7, 2008 at 20:11 EST, showing receipt in the Office.

I, Charles R. Cypher, having been duly warned that willful false statements and the like so made are punishable by fine or imprisonment or both under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this document or the instant application, I hereby declare that the facts set forth herein are true; that all statements made of my own knowledge are true; and that all statements made on information and belief are believed to be true.

Date: March 7, 2008

Signature:

Charles R. Cypher, Reg. No. 41,694



Electronic Acknowledgement Receipt

EFS ID:	2682273
Application Number:	09729491
International Application Number:	
Confirmation Number:	5971
Title of Invention:	AUTOMATIC TAKE-UP DEVICE WITH INTERNAL SPRING
First Named Inventor/Applicant Name:	William F. Leek
Customer Number:	498
Filer:	Charles Russell Cypher/Nicolas Gold
Filer Authorized By:	Charles Russell Cypher
Attorney Docket Number:	SST/1035
Receipt Date:	07-JAN-2008
Filing Date:	03-DEC-2000
Time Stamp:	20:04:46
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Credit Card
Payment was successfully received in RAM	\$ 1860
RAM confirmation Number	3908
Deposit Account	034075
Authorized User	CYPHER,CHARLES R
The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows: Charge any Additional Fees required under 37 C.F.R. Section 1.16 (National application filing, search, and examination fees) Charge any Additional Fees required under 37 C.F.R. Section 1.17 (Patent application and reexamination processing fees)	

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Charge any Additional Fees required under 37 C.F.R. Section 1.19 (Document filing fees)

Charge any Additional Fees required under 37 C.F.R. Section 1.21 (Miscellaneous fees and charges)

File Listing:

Document Number	Document Description	File Name	File Size(Bytes) /Message Digest	Multi Part /.zip	Pages (if appl.)
1	Request for Continued Examination (RCE)	SST_1035_sb0030e_fill.pdf	38154 bcaa2b6233fb5d6a244da7a0ca45504a a9e9c2d8	no	3

Warnings:

This is not a USPTO supplied RCE SB30 form.

Information:

2	Amendment Submitted/Entered with Filing of CPA/RCE	SST_1035_USPA_Resp_to_OA.pdf	99391 b56ea8be7d028deb4ef696d0b1195076 b410d97f	no	11
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Warnings:

Information:

3	Fee Worksheet (PTO-06)	fee-info.pdf	8322 a68bdcb98dc2285db69f89b1f65f496ca 8e5def	no	2
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Warnings:

Information:

Total Files Size (in bytes):

145867

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

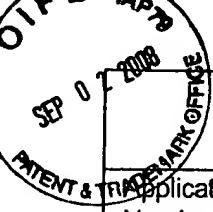
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 Indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

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REQUEST FOR CONTINUED EXAMINATION(RCE)TRANSMITTAL
(Submitted Only via EFS-Web)

Application Number	09/729,491	Filing Date	2000-12-03	Docket Number (if applicable)	SST-1035	Art Unit	3637
First Named Inventor	WILLIAM F. LEEK			Examiner Name	A, PHI DIEU TRAN		

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. The Instruction Sheet for this form is located at WWW.USPTO.GOV

SUBMISSION REQUIRED UNDER 37 CFR 1.114

Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____

☐ Other _____

☒ Enclosed

☒ Amendment/Reply

☐ Information Disclosure Statement (IDS)

☐ Affidavit(s)/ Declaration(s)

☐ Other _____

MISCELLANEOUS

☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of months _____
(Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

☐ Other _____

FEES

☒ The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.
The Director is hereby authorized to charge any underpayment of fees, or credit any overpayments, to Deposit Account No _____

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

☒ Patent Practitioner Signature

☐ Applicant Signature

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Signature of Registered U.S. Patent Practitioner			
Signature	/s Charles R. Cypher/	Date (YYYY-MM-DD)	2008-01-07
Name	CHARLES R. CYPHER	Registration Number	41694

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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EV 939 520032



Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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Electronic Patent Application Fee Transmittal

Application Number:

09729491

Filing Date:

03-Dec-2000



Title of Invention:

AUTOMATIC TAKE-UP DEVICE WITH INTERNAL SPRING

First Named Inventor/Applicant Name:

William F. Leek

Filer:

Charles Russell Cypher/Nicolas Gold

Attorney Docket Number:

SST/1035

Filed as Large Entity

Utility Filing Fees

Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				
Extension-of-Time: EV 939 520 766				
Extension - 3 months with \$0 paid	1253	1	1050	1050

EV 939 520 032

Descriptir	Fee Code	Q ity	Amount	Sub-Total in USD(\$)
Miscellaneous:				
Request for continued examination	1801	1	810	810
Total in USD (\$)				1860

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EV 939 520 032



PATENT
Attorney Docket No. SST/1035
SN:09/729,491; Filed Date December 3, 2000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: William F. LEEK

Conf. No.
1214

Application No.: 09/729,491

Examiner: A, Phi Dieu Tran

Filed: December 3, 2000

Art Unit: 3637

For: AUTOMATIC TAKE-UP DEVICE
WITH INTERNAL SPRING

Mail Stop: Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

SUBMISSION UNDER 37 CRR 1.114

This amendment is being submitted in response to the Examiner's office action dated July 5th, 2007, having a shortened statutory period for reply set at 3 months. It is being submitted within 6 months of the mailing date of said office action and is accompanied by a petition for 3 months extension of time and the requisite fee, making it a timely response.

Petition for Extension of Time

Applicant petitions for an extension of time under 37 CFR § 1.136 for three (3) months. The fee under 37 CFR § 1.17 is included herewith. If the enclosed amount is incorrect, the commissioner is permitted to charge any required extension and/or deficiency or credit any overpayment to deposit account No. 03-4075 (Attorney Docket No. SST/1035).

Amendments to the Application:

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 7 of this paper.



AMENDMENTS IN THE CLAIMS

The listing of claims will replace all prior versions, and listings, of the claims in the application:

Listing of Claims:

1. (Currently amended) - A connection, comprising:
 - a. an elongated tension member, having first and second ends, said elongated tension member being anchored at said second end;
 - b. a fastening member attached to said elongated tension member at said first end;
 - c. a resisting member that receives said elongated tension member and is disposed between said fastening member and said second end of said tension member;
 - d. an expansion device that receives said elongated tension member there through and is compressively loaded between said fastening member and said resisting member by operation of said fastening member on said elongated tension member and said fastening member is only directly supported by said expansion device and said elongated tension member, said expansion device comprising,
 1. a surrounding sleeve, having two ends, and a central aperture through which said elongated tension member is inserted, wherein a portion of said central aperture is formed as a substantially cylindrical inner surface and wherein at least a portion of said cylindrical inner surface is formed with a thread;
 2. first and second bearing members received in said central aperture of said surrounding sleeve and operatively connected to said surrounding sleeve, said first and second bearing members also having apertures through which said elongated tension member is inserted, and wherein at least one of said bearing members has a cylindrical outer surface formed with a thread that mates with said thread of said cylindrical inner surface of said surrounding sleeve and is connected to said surrounding sleeve only by the mating attachment of said thread on said cylindrical outer surface with said thread of said surrounding sleeve, such that said at least one bearing member can rotate in

relation to said surrounding sleeve, and said first and second bearing members are formed with outer axial ends that protrude out of said surrounding sleeve, said outer axial end of said first bearing member contacting said fastening member, and said outer axial end of said second bearing member contacting said resisting member; and

3. a torsion spring connecting said first and second bearing members, said torsion spring biasing said first and second members in opposite rotational directions such that said at least one of said bearing members is forced to rotate along said thread of said surrounding sleeve away from said other bearing member and out of said surrounding sleeve, said torsion spring being disposed within said surrounding sleeve.

2. (Original) The connection of claim 1, wherein:

Both of said bearing members have cylindrical outer surfaces formed with threads that mate with said thread of said cylindrical inner surface of said surrounding sleeve, and both of said bearing members are connected to said surrounding sleeve only by the mating attachment of said threads on said cylindrical outer surfaces with said thread of said surrounding sleeve, such that both of said bearing members can rotate in relation to said surrounding sleeve.

3. (Original) The connection of claim 1, wherein:

- a. said elongated tension member is at least partially formed with a thread where said fastening member attaches to said elongated tension member;
- b. said fastening member attaches to said elongated tension member by means of an internal thread that mates with said thread of said elongated tension member; and
- c. said thread of said surrounding sleeve is threaded in the opposite direction as said thread of said elongated tension member.

4. (Original) The connection of claim 1, wherein said expansion device further comprises:

an inner sizing sleeve that is received by said surrounding sleeve and is disposed between said torsion spring and said elongated tension member.

5. (Original) The connection of claim 1, wherein said expansion device further comprises:
a locking clip that is releasably attached to said expansion device, said locking clip holding said first and second bearing members so as to prevent them from rotating under said influence of said torsion spring and causing said device to expand.
6. (Original) The connection of claim 1, wherein said expansion device further comprises:
a pair of annular seals disposed at said ends of said surrounding sleeve to protect said thread of said surrounding sleeve.
7. (Cancelled) The connection of claim 1, wherein:
said thread of said surrounding sleeve near at least one of said ends of said surrounding sleeve is disturbed so that it is not possible for a bearing member traveling on said thread to pass all the way out of said surrounding sleeve.
8. (Original) The connection of claim 1, wherein:
 - a. said torsion spring is formed with first and second ends; and
 - b. said first and second bearing members are formed with annular recesses that can receive said ends of said torsion spring so that expansion device can be made more compact.
9. (Original) The connection of claim 1, wherein:
 - a. said elongated tension member has first and second ends and said fastening member, resisting member and expansion member are disposed near said first end; and
 - b. said second end of said elongated tension member is connected to a structural member in a building.

10. (Original) The connection of claim 9, wherein:
said building has a structural frame at least a portion of which is made from wood.
11. (Original) The connection of claim 2, wherein:
said thread of said surrounding sleeve near at least one of said ends of said surrounding sleeve is disturbed so that it is not possible for a bearing member traveling on said thread to pass all the way out of said surrounding sleeve.
12. (Original) The connection of claim 11, wherein:
 - a. said torsion spring is formed with first and second ends; and
 - b. said first and second bearing members are formed with annular recesses that can receive said ends of said torsion spring so that expansion device can be made more compact.
13. (Original) The connection of claim 12, wherein:
 - a. said elongated tension member is at least partially formed with a thread where said fastening member attaches to said elongated tension member;
 - b. said fastening member attaches to said elongated tension member by means of an internal thread that mates with said thread of said elongated tension member; and
 - c. said thread of said surrounding sleeve is threaded in the opposite direction as said thread of said elongated tension member.
14. (Original) The connection of claim 13, wherein said expansion device further comprises:
an inner sizing sleeve that is received by said surrounding sleeve and is disposed between said torsion spring and said elongated tension member.
15. (Previously presented) The connection of claim 14, wherein said expansion device further comprises:

a locking clip that is releasably attached to said expansion device, said locking clip holding said first and second bearing members so as to prevent them from rotating under said influence of said torsion spring and causing said device to expand.

16. (Original) The connection of claim 15, wherein said expansion device further comprises:
a pair of annular seals disposed at said ends of said surrounding sleeve to protect said thread of said surrounding sleeve.
17. (Original) The connection of claim 2, wherein:
said torsion spring connects to said first and second bearing members near said outer axial ends of said bearing members.
18. (Original) The connection of claim 1, wherein:
said thread of said surrounding sleeve near at least one of said ends of said surrounding sleeve is disturbed so that it is not possible for a bearing member traveling on said thread to pass all the way out of said surrounding sleeve.
19. (Original) The connection of claim 18, wherein:
said torsion spring connects to said first and second bearing members near said outer axial ends of said bearing members.
20. (Original) The connection of claim 19, wherein said expansion device further comprises:
an inner sizing sleeve that is received by said surrounding sleeve and is disposed between said torsion spring and said elongated tension member.

REMARKS

By this paper, Applicant has amended claim 1. Applicant has not added or cancelled any claims. The independent claim remains claim 1. This amendment contains no new matter. Entry of this amendment is respectfully requested.

Claim Rejections – 35 USC § 113

Examiner's Section 2. Claims 1-2

The Examiner has rejected claim 1 under 35 USC § 112. The Examiner argues that the teaching of the specification is at odds with the amended claim.

The Examiner states at page 2, that "the fastening member is also supported by other structures indirectly...." Applicant has amended claim 1 to say that only the expansion member and the elongated tension member directly support the fastening member.

Applicant respectfully requests that the rejection be removed.

Claim Rejections – 35 USC § 103

Examiner's Section 2. Claims 1- 2, 9-10 and 17

The Examiner has rejected claims 1- 2, 9-10 and 17 under 35 USC § 103 as unpatentable over Minutoli et al., U.S. Patent No. 3,782,061 ("Minutoli") in view of Commins 459414913 C5 ("Commins") and Siemons, U.S. Patent No. 5,839,981 ("Siemons").

First, Applicant maintains its argument that it is not appropriate to combine Minutoli with Commins or Siemons. Applicants believe the Examiner has failed to make a prima facie case of obviousness, given the teachings of Minutoli.

As stated previously, Minutoli teaches away from making the combination suggested by the Examiner. Furthermore, neither Commins or Minutoli suggest modifying Minutoli. As such, the references do not suggest the combination.

Minutoli teaches an invention that "allows a multistoried building to be uniformly prestressed throughout in a simple manner, while avoiding the delay occasioned by the need to prestress the reinforcing rods corresponding to a single story of a building." Minutoli, column 1, line 18. Minutoli is not concerned with

the compression states of elements 42 and 48 and 50, the sleeve and bushings. Minutoli is concerned with the compression states of the panels 12 and 14.

Since Minutoli is concerned with providing uniform prestressing along the length of rods 52 and 59, and not with the compression state of the bushings 48 and 50 and sleeve 42, the members that the Examiner describes as making up the fastening member of Minutoli (plate 26, nut 60 and "the part next to part 59 figure 2") can compress not only bushing 48 but also panel 16 and sleeve 42. Because the fastening member of Minutoli rests not only the bushing 48, but panel 16 and sleeve 42, there can be situations when the resisting member of Minutoli places no compression on bushing 48. Thus, Minutoli teaches away from bushing 48 being under constant compressive forces from the fastening members of Minutoli.

Second, Applicant believes that the Examiner's statement at page 3 of the Office Action, line 6, that Minutoli teaches a "fastening member [that] is only supported by the expansion device and said elongated tension member" is incorrect. The elements of Minutoli that the examiner considers equivalent of the claimed fastening member (plate 26, nut 60 and "the part next to part 59 figure 2") are supported by elements other than the expansion device and the elongated tension member. In particular, second panel 16 of Minutoli supports lower anchor plate 26 of Minutoli.

Applicant has also amended claims 1 and 2 to make the distinction between Minutoli and the present invention more clear. Applicant has amended both claims to say that the "fastening member is only directly supported by said expansion device and said elongated tension member." In comparison, the fastening member of Minutoli, in addition to being supported by bushing 48, is directly supported by panel 16.

In the present invention, the positional relationship of the fastening member to the expansion device is determined solely by the position of the bearing member and the elongated tension member, and as such it can perform its function of maintaining the compression forces on the expansion device, and in turn maintain the compression forces on the resisting member.

Applicant by these arguments and this amendment, feels it has overcome the rejection raised by the Examiner of claim 1, and respectfully requests that the Examiner allow the claim. As all of the claims depend from claim 1, Applicant feels they too are now in condition for allowance.

Furthermore, with respect to claim 3, Applicant notes that the Examiner talks of Minutoli teaching opposite threading (see page 4, line 6 of the Examiner's Office Action). Minutoli represents threaded portions of the members of Minutoli only

schematically. It is not possible to determine the orientation of the threaded members as the Examiner has done.

Furthermore, with respect to claim 10, which calls for the building to have a structural frame at least a portion of which is made from wood, Applicant renews its argument. While it is true that wood is a common building material. Wood behaves in a different way than concrete which is the relevant aspect of the limitation in the claims.

The concrete panels 12, 14 and 16 of Minutoli that the string of reinforcing rods compress are relatively uncompressible members, in comparison to wood framed panels that are expected to shrink (see page 1, line 22 of the present specification). Thus, a structural frame that is at least partially made from wood will have need for this invention, as compared to a building made solely from concrete panels.

Rejection of Claim 4

The Examiner has rejected claim 4 under 35 USC § 103(a) as unpatentable over Minutoli in view of Commins and Siemons as applied to claim 1 and further in view of Greenwood, 459417970 page 318, figure 19 ("Greenwood").

Claim 4 depends from claim 1, and Applicant by the arguments and the amendment made above, feels it has overcome the rejection raised by the Examiner of claim 1. Those arguments and amendment apply equally to claim 4 as it incorporates all of the limitations of claim 1 and Applicant raises them here without repeating them for the sake of brevity. As such, Applicant believes claim 4 is in condition for allowance.

Rejection of Claim 5

The Examiner has rejected claim 5 under 35 USC § 103(a) as unpatentable over Minutoli in view of Commins and Siemons.

Claim 5 depends from claim 1, and Applicant by the arguments and the amendment made above, feels it has overcome the rejection raised by the Examiner of claim 1. Those arguments and amendment apply equally to claim 5 as it incorporates all of the limitations of claim 1 and Applicant raises them here without repeating them for the sake of brevity. As such, Applicant believes claim 5 is in condition for allowance.

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Furthermore, the Examiner says that element 28 of Minutoli corresponds to the locking clip of claim 5, and could be modified to meet all of the limitations of claim 5. Applicant respectfully disagrees. The Examiner has not made a prima facie case of obviousness, because the Examiner has incorrectly described the relationship of the parts. Element 28 of Minutoli is attached to plate 26 which the Examiner characterizes as being part of the fastening member. Element 28 would prevent plate 26 from rotating, but it would not prevent bushings 48 and 50 from rotating and moving out of the sleeve 42.

Applicant also fails to see in Minutoli any motivation to make elements 28 threadably releasable from plate 26, since they will be embedded in concrete. Since Minutoli shows plate 26 having two elements 28, it would not be possible to threadably release the plate 26 from both of them after they were embedded in the concrete.

Rejection of Claim 6

The Examiner has rejected claim 6 under 35 USC § 103(a) as unpatentable over Minutoli in view of Commins and Siemons as applied to claim 2 and further in view of Fuehrer, U.S. Patent No. 3,118,681 ("Fuehrer").

Claim 6 depends from claim 1, and Applicant by the arguments and the amendment made above, feels it has overcome the rejection raised by the Examiner of claim 1. Those arguments and amendment apply equally to claim 6 as it incorporates all of the limitations of claim 1 and Applicant raises them here without repeating them for the sake of brevity. As such, Applicant believes claim 6 is in condition for allowance.

Rejection of Claim 7

The Examiner has rejected claim 8 under 35 USC § 103(a) as unpatentable over Minutoli in view of Commins and Siemons as applied to claim 1 and further in view of Greenwood.

Claim 8 depends from claim 1, and Applicant by the arguments and the amendment made above, feels it has overcome the rejection raised by the Examiner of claim 1. Those arguments and amendment apply equally to claim 8 as it incorporates all of the limitations of claim 1 and Applicant raises them here without repeating them for the sake of brevity. As such, Applicant believes claim 8 is in condition for allowance.

Allowable Subject Matter

The Applicant would like to thank the Examiner for indicating that claims 3, 11- 16 and 17 - 20 would be allowable, if written in independent form.

Applicant has not amended these claims at this time. Applicant hopes the Examiner will now consider these claims allowable based on the amendment and arguments raised with respect to claim 1 from which these claims depend.

Conclusion

Applicant believes the claims are currently in condition for allowance and respectfully requests the same.

Please direct any calls in connection with this application to the undersigned at (510) 832-4111.

Respectfully submitted,

Date: January 7, 2008

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01-07-2008	RCEX	Request for Continued Examination (RCE)	PROSECUTION
01-07-2008	AMSB	Amendment Submitted/Entered with Filing of CPA/RCE	PROSECUTION
01-07-2008	WFEE	Fee Worksheet (PTO-06)	PROSECUTION
01-07-2008	N417	Status Letter Mailed to Applicant	PROSECUTION
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04-11-2007	DISQ	Terminal Disclaimer Approval form used within the USPTO	PROSECUTION
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